

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

JERRY TRONNE BROWN,	)	
	)	
Petitioner,	)	
	)	Case No. 4:01 CV 451 RWS
v.	)	
	)	
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	

**MEMORANDUM AND ORDER**

This matter is before me on Petitioner Jerry Brown's pro se motion pursuant to Fed. R. Civ. P. 59(e). Brown appears to seek an amendment to the Memorandum and Order I entered on March 31, 2011 denying his motion to correct or modify the record pursuant to Federal Rule of Appellate Procedure 10(e).


In his motion to modify the record, Brown argued a jury note was missing from the record and, as a result, "the appeals court cannot review this matter until the district court develop[s] the record by supplementing this matter." He indicated he was "simply requesting the court to supplement the record so that the jury note will appear in the record." As I discussed in my Order denying Brown's motion to modify the record, the jury note *is* part of the record and is included in Docket No. 139 in Brown's underlying criminal case (4:98 CR 152 RWS). In his motion to modify the record, Brown also alluded to his not being aware of the jury note in question at the time he filed his Section 2255 petition. However, Brown *was* aware of the jury note in question because in his Section 2255 petition, he unsuccessfully relied on the jury note as a basis for his being entitled to a new trial.

Brown now argues that he is entitled to relief under Rule 59(e) because "the claim [he]

raised in his Rule 10(e) Motion was not ripe when he filed his [Section] 2255 Motion.” Brown’s argument is without merit. The jury note at issue *is* a part of the record for his criminal case. Brown was aware of the jury note at the time he filed his Section 2255 petition because he assert a claim for relief *based* on the jury note in question. For these reasons, Petitioner Brown’s Rule 59(e) Motion must be denied.

Accordingly,

**IT IS HEREBY ORDERED that** Petitioner Jerry Tronne Brown’s Rule 59(e) Motion [#60] is **DENIED**.

  
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RODNEY W. SIPPEL  
UNITED STATES DISTRICT JUDGE

Dated this 5th day of May, 2011.